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11 **IN THE UNITED STATES DISTRICT COURT**  
12 **FOR THE DISTRICT OF NEVADA**

13 UNITED STATES OF AMERICA,

14 Petitioner,

15 vs.

16 JIHAD ANTHONY ZOGHEIB,

17 Respondents.

CASE NO. 2:16-cr-00057-RH-VCF

**EX PARTE MOTION TO WITHDRAW  
AS COUNSEL OF RECORD**

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Petitioner, Jihad Anthony Zogheib, by and through his counsel of record, Gia McGillivray, files this Motion to Withdraw as Counsel of Record. This Motion is based upon the attached points and authorities and all pleadings and papers on file herein.

DATED this 9<sup>th</sup> day of December, 2016.

MCGILLIVRAY LAW

By: /s/ Gia McGillivray

Gia McGillivray, Esq.

Nevada Bar No. 008182

**FACTUAL STATEMENT**

Jihad Anthony Zogheib ("Mr. Zogheib") is charged in a superseding indictment with eight counts of wire fraud under 18 U.S.C. § 1343 and two counts of money laundering under 18 U.S.C. § 1957. EFC No. 23.

1 At Mr. Zogheib's initial arraignment on March 11, 2016, the Office of the Federal Public  
2 Defender was appointed to represent Mr. Zogheib. ECF No. 17. Rebecca Levy entered an  
3 appearance on March 14, 2016. ECF No. 14.

4 On September 12, 2016, Mr. Zogheib filed a Motion to Substitute Counsel, AFDC Rebecca  
5 Levy, or in The Alternative Motion to Proceed in Proper Person ("Motion"). ECF No. 53. In  
6 support of his Motion, Mr. Zogheib cited to "unavailing meetings" with counsel, "voluminous and  
7 unanswered, trial preparation related correspondences" and a complete breakdown in  
8 communication. ECF No. 53 at 2.

9 On September 23, 2016, this Court granted Mr. Zogheib's Motion to substitute counsel and  
10 appointed the undersigned as counsel for Mr. Zogheib in place of the Federal Public Defender's  
11 Office. ECF No. 56.

12 Within 2 weeks of the appointment, Counsel was able obtain the discovery from Ms. Levy,  
13 to speak with Mr. Zogheib via telephone on several occasions and to begin reviewing the  
14 discovery. Counsel met with Mr. Zogheib on October 27, 2016. Based upon a partial review of  
15 the discovery, Counsel advised Mr. Zogheib to refrain from certain communications and activities  
16 in which he continued to participate.

17 During Counsel's first, in-person meeting with Mr. Zogheib, Counsel discovered and  
18 advised Mr. Zogheib that Counsel had previously sued one of the government's key witnesses in  
19 a federal court action. Although it did not appear that this created an actual conflict, Counsel  
20 explained to Mr. Zogheib that she would review all applicable rules of professional conduct to  
21 ensure that there was no issue of a conflict. Absent a conflict, Counsel advised Mr. Zogheib that  
22 the only potential impact Counsel could foresee the the prior litigation having upon his case that  
23 the witness might be more antagonistic during any cross examination.

24 A complete review of applicable conflict rules confirmed that a conflict did not exist. In  
25 the meantime, however, Counsel had cautioned and advised Mr. Zogheib to refrain from specific  
26 actions which had the potential of compromising his defense. Despite repeated admonitions by  
27 Counsel, Mr. Zogheib refused to heed the advice of Counsel concerning conduct which Counsel  
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1 advised was imprudent. During this time, Mr. Zogheib also filed several motions in proper person;  
2 eventhough, he unquestionably knew that Counsel had been appointed to represent him.

3 During a subsequent meeting with Mr. Zogheib, when Counsel requested clarification as  
4 to why Mr. Zogheib was filing motions in proper person and meeting with government agents  
5 without notification to Counsel, against the advise of Counsel and in Counsel's absence, Mr.  
6 Zogheib offered that he had sent a letter asking Counsel to withdraw as he believed a conflict  
7 existed. Although Counsel had not received any correspondence from Mr. Zogheib, Mr. Zogheib  
8 provided Counsel with a copy of correspondence dated October 28, 2016, in which he requested  
9 that Counsel withdraw. In addition to his belief that a conflict exists, Mr. Zogheib's action have  
10 rendered it difficult for Counsel to carry out Mr. Zogheib's representation in an effective manner.

11 Counsel has since spoken with Mr. Zogheib several times by telephone and he has  
12 continued to request that Counsel file a motion to withdraw. Pursuant to Mr. Zogheib's request,  
13 Counsel files the instant motion.

#### 14 **POINTS AND AUTHORITIES**

15 Rule 1.16 of the Nevada Rules of Professional Conduct ("NRPC") provides, in pertinent  
16 part, that a lawyer may withdraw from representation where: (1) withdrawal can be accomplished  
17 without material adverse effect on the interests of the client."

18 In this case, the withdrawal can be accomplished without adverse effect on the interests of  
19 Mr. Zogheib as Counsel's withdrawal will not delay proceedings in this matter; there are no  
20 immediate timelines pending in the action. Therefore, good cause exists and Counsel requests that  
21 the motion be granted.

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**CONCLUSION**

The undersigned respectfully request that this Court grant the Motion to Withdraw as Counsel of Record in these proceedings. Further, the undersigned respectfully requests that the Court appoint substitute counsel to represent Mr. Zogheib in these proceedings.

DATED this 9<sup>th</sup> day of December, 2016.

McGILLIVRAY LAW

By: /s/ Gia McGillivray  
Gia McGillivray, Esq.  
Nevada Bar No. 008182

IT IS SO ORDERED:

\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE,

DATED: \_\_\_\_\_, 2016

**CERTIFICATE OF SERVICE**

I hereby certify that on the date of filing of the document named below with the Clerk of the Court, I cause a true and correct copy to be served in the following manner:

DOCUMENT(S) SERVED: MOTION TO WITHDRAW AS COUNSEL OF RECORD

☒ ELECTRONIC SERVICE: Pursuant to Local Rule LR 5-4 of the United States District Court for the District of Nevada, the above-referenced document was electronically filed and served on all appearing parties through the Notice of Electronic Filing automatically generated by the Court.

☒ UNITED STATES MAIL: By depositing a true and correct copy of the above-referenced document into the United States Mail with prepaid first-class postage, addressed to the parties at their last-known mailing address(es):

Jihad Anthony Zogheib, #33486048  
Nevada Southern Detention Center  
2190 E. Mesquite Avenue  
Pahrump, Nevada 89060

☐ OVERNIGHT COURIER: By depositing a true and correct copy of the above-referenced document for overnight delivery via a nationally-recognized courier, addressed to the parties listed below at their last-known mailing address.

☐ FACSIMILE: By sending the above-referenced document via facsimile to those persons listed on the attached service list at the facsimile numbers set forth thereon.

☐ EMAIL: By sending the above-referenced document via email to those persons at the email addresses set forth below:

/s/Gia McGillivray  
Gia McGillivray